OLR Bill Analysis

sHB 6473

AN ACT CONCERNING THE PUBLIC UTILITIES REGULATORY AUTHORITY, WHISTLEBLOWER PROTECTION, THE PURCHASED GAS ADJUSTMENT CLAUSE, ELECTRIC SUPPLIER DISCLOSURE REQUIREMENTS, THE CALL BEFORE YOU DIG PROGRAM, AND MINOR AND TECHNICAL CHANGES TO THE UTILITY STATUTES.

SUMMARY:

This bill makes several unrelated changes in the energy statutes. Among other things, it requires electric suppliers to notify customers at least three weeks before a rate change becomes effective and establishes disclosure requirements for suppliers offering power generated from certain renewable energy sources.

It expands the scope of the "Call Before You Dig" law, which governs excavation, explosive, and demolition projects near underground utility facilities. Among other things, it (1) increases the underground facilities protected under the law, (2) broadens the law's notice requirement, and (3) increases the maximum fines for violations from $40,000 to $200,000.

The bill transfers several regulatory powers from the Department of Energy and Environmental Protection (DEEP) to the Public Utilities Regulatory Authority (PURA), which is within DEEP. It also makes administrative changes to PURA and the Division of Adjudication.

It also makes administrative changes to the process by which PURA reviews gas and electric company charges and credits made under the adjustment clauses for purchased gas, energy, and transmission rates.

By law, a utility company cannot threaten or retaliate against an employee who reported the company's malfeasance or illegal activities. Current law allows employees who feel they are being

retaliated against to file a complaint with PURA, which must issue a preliminary finding within 30 days. Starting July 1, 2013, the bill extends this deadline from 30 to 90 days. It also expands PURA's enforcement powers to include awarding an employee back pay or attorney's fees. Existing law, unchanged by the bill, allows PURA to issue orders and impose civil penalties.

Current law requires utility companies to notify their customers of a proposed rate amendment by mail at least one week before a public hearing on the amendment. The bill limits how early the notice can be issued to no earlier than six weeks before the first public hearing. It also requires the notice to include (1) the hearing date, time, and location and (2) a statement that customers can appear at the hearing or provide written comments on the proposal to PURA. It allows PURA to hold more than one hearing on a proposed rate amendment.

The bill also makes several minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2013, except for the provisions regarding (1) PURA, which are effective upon passage, and (2) whistle blower protection, which are effective July 1, 2013.

§ 12 — ELECTRIC SUPPLIERS

Rate Change Disclosure

The bill requires an electric supplier to notify its customers in writing about any electric generation rate change at least three weeks in advance. PURA must approve the format and manner in which the notice is distributed. It is not clear how this provision applies to variable rates that can change more frequently than every three weeks.

When an electric supplier, aggregator, or their agent is advertising or disclosing electricity prices, the bill requires them to indicate the advertised price's expiration terms in (1) a conspicuous part of the advertisement or disclosure that includes the advertised price and (2) the same font size and color as the advertised price.

Renewable Energy Disclosure

The bill prohibits electric suppliers from advertising, offering, selling, or charging a premium for any type of renewable energy source that is not a renewable energy credit (REC) generated by a Class I or Class II renewable energy source, or a Class III source. By law, Class I renewable energy sources include solar and wind power, power from fuel cells, and certain biomass and hydropower resources, among other things. Class II sources include power from other types of biomass facilities and trash-to-energy facilities. Class III includes power produced from certain cogeneration and waste heat recovery systems and the energy saved from certain conservation programs. RECS are created by renewable energy producers and are bought and sold on the wholesale electric market to meet renewable portfolio standards in Connecticut and other states.

The law's renewable portfolio standard (RPS) requires electric suppliers to obtain a certain portion of their power from Class I, II, and III energy sources. Under the bill, a supplier that offers any services or products that contain RECS that were not used to comply with the state's RPS must clearly disclose on the service's or product's marketing material and customer contracts (1) the class from which the RECS were generated, (2) the percentage above the RPS requirements, and (3) any other information PURA requires. An electric supplier must submit a copy of these contracts or marketing material for PURA's approval before it can begin offering the service or products.

Regulatory Power Over Suppliers Transferred from DEEP to PURA

The bill transfers from DEEP to PURA the authority to:

1. approve the form on which customers can opt out of having their contact and rate class information shared with electric suppliers;

2. determine the reasonable amount of time in which electric companies must provide suppliers with updated customer lists;

3. receive copies of customer contracts and records from suppliers;

4. penalize suppliers that violate the law's restrictions on using customer information, promotional inserts, disclosure requirements, and procedures for entering and terminating service contracts; and

5. make regulations on suppliers' abusive switching practices, solicitations, and renewals.

§§ 15-25 — CALL BEFORE YOU DIG

The "Call Before You Dig" law requires utility companies to file the locations of their underground facilities (e.g., power lines and pipelines) with a central clearinghouse operated by PURA. People must notify the clearinghouse before excavating or discharging explosives near the facilities or demolishing a structure containing a facility. The clearinghouse notifies the utility which provides the person, public agency, or other utility with its facilities' approximate underground location.

Covered Facilities and Projects

The bill expands the types of services and underground facilities covered by the law to include facilities that provide service for (1) communications; (2) fire signals or similar service; and (3) any pipeline, regardless of whether it is for hire or not. It specifically exempts underground facilities that (1) provide service only to a private residence and (2) are owned by the private residence's owner.

The bill also adds dredging, reclamation processes, and milling to the types of excavation projects that trigger the law's notice and other requirements. It removes an exception for powered or mechanized soil tilling for agricultural purposes. (Under the bill, farmers will have to "call before they dig" their crops.)

Notice Requirements

Under current law, a person must notify the clearinghouse orally or in writing at least two business days before (1) excavating or discharging explosives near a utility's underground facilities or (2) demolishing a structure containing a facility. The notice must be

resubmitted if the proposed project does not start within 30 days.

The bill requires the notice for any excavating, discharging of an explosive, or demolition, regardless of its proximity to an underground facility. It removes the requirement for the notice to be given orally or in writing at least two business days early and instead allows PURA to adopt regulations on the notice's form and timing. It also removes the 30-day deadline to start the project and instead allows PURA to adopt regulations dictating a deadline for a project to be completed.

Under certain emergency circumstances, current law allows an excavation or demolition to proceed without meeting the notice requirements as long as notice is given by telephone as soon as reasonably possible. The bill allows this notice to be given in any form.

The law requires a person to immediately notify a utility if he or she makes contact with, damages, or suspects that he or she damaged the utility's underground facility. The bill specifies that the damage or suspected damage must imperil, or likely imperil, the continued integrity of the facility's structural or lateral support.

Precautions for Combustible or Hazardous Fluids or Gases

Under current law, only hand digging can be used when gas facilities are likely to be exposed. The bill expands this precaution to cover facilities containing any combustible or hazardous fluids (e.g., oil) or gases. In addition to hand digging, it allows "soft digging," which it defines as a non-mechanical and non-destructive process to excavate and evacuate soils at a controlled rate using high pressure water or an air jet to break up the soil.

Underground Facility Locations

When a utility is providing someone with the approximate location of its underground facilities, current law requires it to identify a strip of land under three feet wide. The bill increases the location's precision by requiring the strip of land to be centered on the

underground facility's actual location.

Current law requires a utility to file its underground facilities' location with PURA. The bill instead requires it to register the geographic areas in which it owns or operates underground facilities with the central clearinghouse.

Administrative Changes

The bill requires the clearinghouse, instead of PURA, to establish the mapping system used to reference the underground facilities. It also transfers, from DEEP to PURA, the authority to make regulations on (1) how to ascertain underground facility locations before starting a project, (2) the evidence necessary for issuing permits, and (3) how utilities must mark the facilities' locations

PURA

Upon the bill's enactment, the bill transfers several regulatory powers from DEEP to PURA. It requires PURA, instead of DEEP, to make regulations on how to notify customers when an electric supplier defaults. It also requires this notice to include the option to return to standard service.

The bill requires PURA, instead of DEEP to make regulations on (1) the standard billing format for electric service and (2) direct customer billing and collection services from electric suppliers. It extends the deadline for PURA to report on its study of supplier direct billing from February 1, 2012 to October 1, 2013 and allows PURA to submit the report to the Energy and Technology Committee electronically.

It also requires PURA, instead of DEEP to (1) determine what storms and scheduled outages are not included in electric company reliability reports and (2) prepare an annual report on electric supplier licenses. It allows PURA to submit this report to the Energy and Technology Committee electronically.

The bill makes several administrative changes to PURA. It requires the PURA chairperson to request a hearing officer's appointment, instead of the PURA panel conducting a hearing. It places the Division

of Adjudication under PURA instead of DEEP, and requires it to advise the PURA chairperson instead of the DEEP commissioner.

Current law allows PURA to hire, within available appropriations, a consultant to perform management audits on the utility companies it regulates. However, funding for the audits comes from an assessment on regulated utilities, not legislative appropriations. The bill removes the available appropriations limit and allows PURA to electronically submit its annual report on the audits to the General Assembly.

ADJUSTMENT CLAUSE REVIEW

By law, PURA can approve an energy adjustment clause for electric companies and a purchased gas adjustment clause for gas companies. These clauses adjust rates for such things as changes in the cost of purchased power and natural gas. They can include a provision allowing an electric or gas company to charge or reimburse customers for over- or under-recovery of its overhead or fixed costs due solely to actual sales varying from projected sales.

Current law requires PURA to hold a public hearing once every six months to determine if the charges or credits made under the adjustment clauses reflect actual prices. The bill decreases the hearing frequency to once every year, but requires PURA to hold a hearing upon the Office of Consumer Counsel's application. Under existing law, unchanged by the bill, PURA can also hold such a hearing whenever it deems it necessary.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute
Yea 23 Nay 0 (03/21/2013)